

**RECEIVED
CENTRAL FAX CENTER****JUN 12 2008****REMARKS**

The Office Action mailed November 16, 2007 and references cited therein have been reviewed. Applicant has, by this Amendment, amended claim 43 and added new claim 67.

The Examiner rejected claims 43-47, 53-60 and 66 under 35 U.S.C. §102(b) as being anticipated by Crook. The Examiner also rejected claims 48-52, 61, 62, 64 and 65 under 35 U.S.C. §103(a) as being unpatentable over Crook in view of Dooley.

Claim 43 has been amended to clarify that the method claim is directed to forming an implant that substitutes for an intervertebral disc for use between two vertebrae and/or a spacer for use between two vertebrae. Crook is directed to the manufacture of a fixation device to correct the setting for bones. Crook is absent any teaching regarding implants, or implants for insertion between two vertebrae. For at least this reason, Crook does not anticipate or make obvious the method defined in amended claim 43 or any of the claims dependent therefrom.

Applicant also submits that Crook does not disclose, teach or suggest the method defined in new claim 67. Claim 67 is directed to a method of forming all or a portion of a bone for insertion in an implant site. As mentioned above, Crook is directed to the formation of a fixation device that is used to connect or secure together a fractured bone. Crook is not directed to formation of all or a portion of the bone as required in claim 67. For at least this reason, claim 67 is not anticipated or made obvious from the teachings of Crook.

The rejection of several of the dependent claims is based on the combined teachings of Crook and Dooley. Dooley discloses an expert system that evaluates basic information about a patient and then recommends an off-the-shelf prosthetic design based on the acquired information from the patient and information about the off-the-shelf prosthetic device. This methodology is very different

from the method defined in the claims. Dooley is not directed to the manufacture of prosthetic devices, but is directed to the proper selection of pre-existing devices. As such, the teachings of Dooley in combination with Crook do not make obvious any of the pending claims.

Applicant submits that all the pending claims are in allowable form.

Respectfully submitted,
FAY SHARPE LLP

By: 

BRIAN E. TURUNG
Registration No. 35,394
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2579
Telephone: (216) 861-5582
Facsimile: (216) 241-1666